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OFFICE OF PETITIONS

In re Application of :
Shinji Furusho :
Application No. 10/048,231 : DECISION ON APPLICATION
Filed: January 28, 2002 : FOR
Atty Docket No. KUBOTA 0006 : PATENT TERM ADJUSTMENT
:

This is a decision on the "APPLICATION TO REVISE THE AMOUNT OF PATENT TERM ADJUSTMENT GRANTED IN THIS APPLICATION, UNDER 37 C.F.R. § 1.705," filed July 7, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred forty-three (443) days to eight hundred sixty-seven (867) days.

The application for patent term adjustment is **DISMISSED**.

On April 7, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 443 days. On July 7, 2005, applicant timely submitted an application for patent term adjustment (with required fee¹). Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant asserts that the period should be calculated as 925 days, counting from the day after the application was filed in the United States.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

¹ PALM records show that the Issue Fee was also received on July 7, 2005.

A review of the application history confirms that the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on August 10, 2004, is 501 days. This period is counted beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, March 29, 2003, and ending on the date of the mailing of the first action under 35 U.S.C. 132, August 10, 2004.

Applicant erred in calculating this period as they used a beginning date of January 29, 2002, the next day after the application fulfilled the requirements of 35 U.S.C. 371.

Given the undisputed reduction of 58 days, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred forty-three (443) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

A handwritten signature in black ink that reads "Kery A. Fries". The signature is written in a cursive style with a large "K" and a distinct "Fries" at the end.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy